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J. Charles Headrick

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/694,590	Applicant(s) HEADRICK, J. CHARLES	
	Examiner Patrick F. O'Reilly III	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6,10-14 and 16-39 is/are rejected.
- 7) ☒ Claim(s) 3,4,7-9 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/27/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed non-provisional application (09/412,909) under 35 U.S.C. 120 is acknowledged.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on October 27, 2003 is acknowledged. The submission is in compliance with the provisions of 37 C.F.R. § 1.97 and 37 CFR § 1.98 and, therefore, the references therein have been considered.

Claim Objections

3. Claim 11 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form. In particular, claim 11 appears to repeat the same exact limitations that are recited in the last clause (lines 8-11) of base independent claim 10.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. **Claims 1-2, 16-19, and 21-39** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 5,772,502) in view of Bergen (US 1,431,869). These two references, when considered together, teach all of the elements recited in **claims 1-2, 16-19, and 21-39** of this application.

6. In particular, claim 1 of this application is obvious when Smith is viewed in light of Bergen. Smith discloses the invention substantially as claimed, including: a plurality of ridge vent sections (20) configured to be arranged end-to-end covering an open ridge (40) of a roof (42); each of said ridge vent sections (20) having a laterally flexible central panel (e.g., top panel portion 22 with flexible midsection 36) flanked by ventilation grids (first and second ventilation means 58 and 60, which include a plurality of spaced ribs 66 defining louvered ventilation openings 68); and a plurality of fasteners (anchoring nails 140) for use in fastening said ridge vent sections (20) to a roof (42). Refer to Smith, Figures 1-6; column 2, lines 46-67; column 3, lines 1-67; column 4, lines 1-67; and column 5, lines 1-47.

However, claim 1 of this application further discloses that the plurality of fasteners are removably secured to each of said ridge vent sections, said fasteners being positioned to be removed by an installer of said ridge ventilation system. Smith does not disclose these additional limitations.

Bergen, although, teaches a combination roofing shingle and attaching means therefor having a plurality of fastening elements (nails 11) removably secured to a longitudinal peripheral edge of each roofing shingle section (10) via holders (12), said fastening elements (11) being positioned to be removed by an installer of the roofing shingle sections (10) for use in fastening the roofing shingle sections (10) to a roof (i.e., by driving the fastening elements 11 through

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holes 17) for the purpose of saving time and labor for an installer working at the jobsite by conveniently locating the fastening elements (11) on the device being installed. See Bergen, Figures 1-3 and page 1, lines 39-89. Therefore, when Smith is viewed in light of Bergen, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ridge ventilation system of Smith by providing each ridge vent section (20) with a plurality of fasteners (e.g., nails) removably secured to a longitudinal peripheral edge thereof for removal during installation, as taught by Bergen, in order to save time and labor for an installer working at the jobsite by conveniently locating the affixing fasteners on the device being installed. Refer to Bergen, page 1, lines 75-78 and 83-89.

7. In regard to claim 2, the modified ridge ventilation system of Smith further teaches that each of said ridge vent sections (20) further comprises wind baffles (outer edge walls 78, 80 with outwardly upturned lips 82, 84) positioned outboard of said ventilation grids (58, 60) for creating a relatively low pressure region in the vicinity of said ventilation grids (58, 60) in response to a breeze blowing past said ridge vent section (20), said fasteners (e.g., nails) being removably secured to said ridge vent sections (20). See Smith, Figure 5 and column 3, lines 53-67; also see Bergen, Figures 1-3 and page 1, lines 39-89.

Smith, as modified by Bergen, does not expressly teach that the fasteners are removably secured to the ridge vent sections between at least one of said wind baffles and the corresponding ventilation grid. Although, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to position the removable fasteners between at least one of said wind baffles and the corresponding ventilation grid because the applicant has not disclosed that this selected position for the removable fasteners provides an

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advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected the applicant's invention to perform equally well with the removable fasteners located along a longitudinal peripheral edge of the ridge vent sections, as taught by Bergen, because this location would also enable the fasteners to be conveniently removed by a worker during the installation of the ridge vent sections on the roof.

8. Moreover, claim 16 of this application is obvious when Smith is viewed in light of Bergen. Smith discloses the invention substantially as claimed, including: a plurality of ridge vent sections (20) configured to be arranged end-to-end covering an open ridge (40) of a roof (42); each of said ridge vent sections (20) having a laterally flexible central panel (e.g., top panel portion 22 with flexible midsection 36) flanked by ventilation grids (first and second ventilation means 58 and 60, which include a plurality of spaced ribs 66 defining louvered ventilation openings 68); and a plurality of fasteners (anchoring nails 140) to be used in fastening said ridge vent sections (20) to a roof (42). Refer to Smith, Figures 1-6; column 2, lines 46-67; column 3, lines 1-67; column 4, lines 1-67; and column 5, lines 1-47.

However, claim 16 of this application further discloses that the plurality of fasteners are stowed on at least one of said ridge vent sections prior to arrangement of the ridge vent sections on a roof. Smith does not disclose this additional limitation.

Bergen, although, teaches a combination roofing shingle and attaching means therefor having a plurality of fastening elements (nails 11) removably secured to a longitudinal peripheral edge of each roofing shingle section (10) via holders (12), wherein the plurality of fastening elements (11) are stowed on the roofing shingle sections (10) prior to arrangement of the roofing shingle sections (10) on a roof (i.e., when the fastening elements 11 are driven through holes 17)

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for the purpose of saving time and labor for an installer working at the jobsite by conveniently locating the fastening elements (11) on the device being installed. See Bergen, Figures 1-3 and page 1, lines 39-89. Therefore, when Smith is viewed in light of Bergen, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ridge ventilation system of Smith by providing each ridge vent section (20) with a plurality of fasteners (e.g., nails) removably stowed on a longitudinal peripheral edge thereof prior to the arrangement of the ridge vent sections (20) on the roof, as taught by Bergen, in order to save time and labor for an installer working at the jobsite by conveniently locating the fasteners on the device being installed. Refer to Bergen, page 1, lines 75-78 and 83-89.

9. In regard to claims 17 and 28, Smith further discloses that each of said ridge vent sections (20) further comprises wind baffles (outer edge walls 78, 80 with outwardly upturned lips 82, 84) positioned outboard of said ventilation grids (58, 60). See Smith, Figure 5 and column 3, lines 53-67. Therefore, Smith in view of Bergen also renders the limitations set forth in these claims obvious.

10. In regard to claims 18 and 29, Smith further discloses that each of said wind baffles (outer edge walls 78, 80 with outwardly upturned lips 82, 84) is supported by an array of buttresses (spaced baffles 105, 107) extending between said wind baffle (78, 80) and the corresponding ventilation grid (58, 60). Refer to Smith, Figure 5 and column 3, lines 53-67. Consequently, Smith in view of Bergen also renders the limitations set forth in claims 18 and 29 obvious.

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11. In regard to claims 19 and 23, Smith further discloses that the plurality of fasteners comprises nails (anchoring nails 140). See Smith, Figure 2 and column 5, lines 37-41. Thus, Smith in view of Bergen also renders the limitations set forth in claims 19 and 23 obvious.

12. In regard to claim 21, Smith further discloses that the fasteners (e.g., anchoring nails 140) are driven into holes (bores 142) formed along the lengths of said ridge vent sections (20). Refer to Smith, Figure 2 and column 5, lines 37-41. Therefore, Smith in view of Bergen also renders the limitations set forth in this claim obvious.

13. In regard to claim 22, Smith further discloses that the holes (bores 142) are disposed in said laterally flexible panel (e.g., top panel portion 22 with flexible midsection 36). See Smith, Figures 2-4 and column 5, lines 37-41. Consequently, Smith in view of Bergen also renders the limitations set forth in claim 22 obvious.

14. In regard to claims 24 and 30, Bergen further teaches that a sufficient number of fastening elements (nails 11) are removably secured to each roofing shingle section (10) for permanently fastening each roofing shingle section (10) to the roof (e.g., as shown in Fig. 1, there are five fastening elements 11 stowed on holders 12, one for each of the five mounting holes 17) so that additional, external fastening elements are not required. Refer to Bergen, Figure 1. Therefore, when Smith is viewed in light of Bergen, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the ridge ventilation system of Smith by providing a sufficient number of fasteners (e.g., nails) to fasten said ridge vent section (20) to a roof (42) and to fasten shingles over the ridge vent section (20), as additionally taught by Bergen, in order to obviate the need for additional, external fasteners (e.g., nails).

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15. In regard to claims 25 and 31, the modified ridge ventilation system of Smith further teaches that the plurality of fasteners (e.g., nails) is removably stowed/carried on said ridge vent section (20). Refer to Bergen, Figures 1-3 and page 1, lines 52-82. Thus, Smith in view of Bergen also renders the limitations set forth in claims 25 and 31 obvious.

16. Furthermore, claim 26 of this application is obvious when Smith is viewed in light of Bergen. Smith discloses the invention substantially as claimed, including: a plurality of ridge vent sections (20) configured to be arranged end-to-end covering an open ridge (40) of a roof (42); each of said ridge vent sections (20) having a laterally flexible central panel (e.g., top panel portion 22 with flexible midsection 36) with holes (bores 142) therein and flanked by ventilation grids (first and second ventilation means 58 and 60, which include a plurality of spaced ribs 66 defining louvered ventilation openings 68); and, a plurality of fasteners (anchoring nails 140) to be used in fastening said ridge vent sections (20) to a roof (42). Refer to Smith, Figures 1-6; column 2, lines 46-67; column 3, lines 1-67; column 4, lines 1-67; and column 5, lines 1-47.

However, claim 26 of this application further discloses that the plurality of fasteners are carried by at least one of said ridge vent sections before said ridge vent sections are arranged on a roof. Smith does not disclose this additional limitation.

Bergen, although, teaches a combination roofing shingle and attaching means therefor having a plurality of fastening elements (nails 11) removably secured to a longitudinal peripheral edge of each roofing shingle section (10) via holders (12), wherein the plurality of fastening elements (11) are stowed on the roofing shingle sections (10) prior to arrangement of the roofing shingle sections (10) on a roof (i.e., when the fastening elements 11 are driven through holes 17) for the purpose of saving time and labor for an installer working at the jobsite by conveniently

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locating the fastening elements (11) on the device being installed. See Bergen, Figures 1-3 and page 1, lines 39-89. Therefore, when Smith is viewed in light of Bergen, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ridge ventilation system of Smith by providing each ridge vent section (20) with a plurality of fasteners (e.g., nails) removably carried on a longitudinal peripheral edge thereof before the ridge vent sections (20) are arranged on the roof, as taught by Bergen, in order to save time and labor for an installer working at the jobsite by conveniently locating the fasteners on the device being installed. Refer to Bergen, page 1, lines 75-78 and 83-89.

17. In regard to claim 27, Smith further discloses that the holes (bores 142) are configured to receive said fasteners (e.g., anchoring nails 140) for fastening said ridge vent sections (20) to a roof (42). Refer to Smith, Figure 2 and column 5, lines 37-41. Therefore, Smith in view of Bergen also renders the limitations set forth in this claim obvious.

18. In addition, claim 32 of this application is obvious when Smith is viewed in light of Bergen. Smith discloses the invention substantially as claimed, including: a central panel (e.g., top panel portion 22 with flexible midsection 36); a ventilation grid (first and second ventilation means 58 and 60, which include a plurality of spaced ribs 66 defining louvered ventilation openings 68) formed along an edge of said central panel (22, 36); and a fastener (e.g., anchoring nail 140) for fastening said ridge vent section (20) to a roof (42). Refer to Smith, Figures 1-6; column 2, lines 46-67; column 3, lines 1-67; column 4, lines 1-67; and column 5, lines 1-47.

However, claim 32 of this application further discloses that the fastener is stowed on said ridge vent section before said ridge vent section is installed on a roof. Smith does not disclose this additional limitation.

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Bergen, although, teaches a combination roofing shingle and attaching means therefor having a plurality of fastening elements (nails 11) removably secured to a longitudinal peripheral edge of each roofing shingle section (10) via holders (12), wherein the plurality of fastening elements (11) are stowed on the roofing shingle sections (10) prior to arrangement of the roofing shingle sections (10) on a roof (i.e., when the fastening elements 11 are driven through holes 17) for the purpose of saving time and labor for an installer working at the jobsite by conveniently locating the fastening elements (11) on the device being installed. See Bergen, Figures 1-3 and page 1, lines 39-89. Therefore, when Smith is viewed in light of Bergen, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ridge vent section of Smith by providing the ridge vent section (20) with at least one fastener (e.g., nail) removably stowed on a longitudinal peripheral edge thereof before the ridge vent section (20) is installed on the roof, as taught by Bergen, in order to save time and labor for an installer working at the jobsite by conveniently locating the fastener on the device being installed. Refer to Bergen, page 1, lines 75-78 and 83-89.

19. In regard to claim 33, Smith further discloses a hole (e.g., bore 142) in said panel (e.g., top panel portion 22 with flexible midsection 36). See Smith, Figures 2-4 and column 5, lines 37-41. Therefore, Smith in view of Bergen also renders the limitations set forth in this claim obvious.

20. In regard to claim 34, Smith further discloses that the fastener (e.g., anchoring nail 140) is driven into said hole (e.g., bore 142) when fastening said ridge vent section (20) to a roof (42). Refer to Smith, Figures 2-4 and column 5, lines 37-41. Consequently, Smith in view of Bergen also renders the limitations set forth in claim 34 obvious.

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21. In regard to claim 35, Smith further discloses that the fastener is a nail (anchoring nail 140). See Smith, Figures 2-4 and column 5, lines 37-41. Thus, Smith in view of Bergen also renders the limitations set forth in claim 35 obvious.

22. In regard to claim 36, Smith further discloses that the central panel (e.g., top panel portion 22 with midsection 36) is laterally flexible (the midsection 36 is laterally flexible). Refer to Smith, Figures 2, 3, and 5; column 2, lines 46-62. Therefore, Smith in view of Bergen also renders the limitations set forth in this claim obvious.

23. In regard to claim 37, Smith further discloses a wind baffle (outer edge walls 78, 80 with outwardly upturned lips 82, 84) positioned outboard of said ventilation grid (58, 60). See Smith, Figure 5 and column 3, lines 53-67. Consequently, Smith in view of Bergen also renders the limitations set forth in claim 37 obvious.

24. In regard to claim 38, Smith further discloses a drain trough (gutters 70, 72) formed between said ventilation grid (58, 60) and said wind baffle (outer edge walls 78, 80 with outwardly upturned lips 82, 84). Refer to Smith, Figures 2 and 5 and column 3, lines 44-52. Thus, Smith in view of Bergen also renders the limitations set forth in claim 38 obvious.

25. In regard to claim 39, Smith further discloses a weep hole (outer drain wall openings 106) formed along said drain trough (gutters 70, 72). Refer to Smith, Figures 3, 4, and 6; column 3, lines 44-52. Therefore, Smith in view of Bergen also renders the limitations set forth in this claim obvious.

26. **Claims 10 and 11** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 5,772,502) in view of Kutsch et al. (US 4,545,291). These two references, when considered together, teach all of the elements recited in **claims 10 and 11** of this application.

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27. In particular, claim 10 of this application is obvious when Smith is viewed in light of Kutsch et al. Smith discloses the invention substantially as claimed, including: a plurality of ridge vent sections (20) configured to be arranged end-to-end covering an open ridge (40) of a roof (42); each of said ridge vent sections (20) having a laterally flexible central panel (e.g., top panel portion with flexible midsection 36) flanked by ventilation grids (first and second ventilation means 58 and 60, which include a plurality of spaced ribs 66 defining louvered ventilation openings 68); and a drain ledge (e.g., top male lip 128) for diverting water that may seep into the junction between a pair of end-to-end ridge vent sections (20) away from the open ridge (40) of a roof (42); said drain ledge (128) comprising a laterally extending surface (see Figs. 3 and 4) formed along one end of each of said ridge vent sections (20), said drain ledge (128) being sized and configured to underlie the junction between two joined ridge vent sections (20) to receive water and divert the water toward said ventilation grids (58, 60) of said ridge vent sections (20). Refer to Smith, Figures 1-6; column 2, lines 46-67; column 3, lines 1-67; column 4, lines 1-67; and column 5, lines 1-47.

However, claim 10 of this application further discloses that the drain is in the form of a laterally extending trough. Smith does not disclose this additional limitation.

Kutsch et al., although, teaches a ridge ventilation system comprising a plurality ridge vent sections (12) configured to be arranged end-to-end covering an open ridge (11) of a pitched roof (10), and connecting members (end flashing members 38, 39) for joining the ends of the ridge vent sections (12), wherein the connecting members (38, 39) are provided with V-shaped troughs formed therein for the purpose of effectively diverting water, which has seeped between the ridge vent sections (12), to the downslope sides of the ridge vent sections (12) and away from

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the roof ridge opening (11). See Kutsch et al., Figures 1, 4, and 5; column 2, lines 32-37; and column 3, lines 24-30. Therefore, when Smith is viewed in light of Kutsch et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ridge ventilation system of Smith by providing the drain ledge (128) of each ridge vent section (20) with a V-shaped trough formed therein, as taught by Kutsch et al., in order to effectively divert water, which has seeped between the ridge vent sections (20), to the downslope sides of the ridge vent sections (20) and away from the roof ridge opening (40).

28. In regard to claim 11, the modified ridge ventilation system of Smith further teaches that the drain ledge (128) comprises a laterally extending V-shaped trough formed along one end of each of said ridge vent sections (20), said V-shaped trough being sized and configured to underlie the junction between two joined ridge vent sections (20) to receive water and divert the water toward said ventilation grids (58, 60) of said ridge vent sections (20). Refer to Kutsch et al., Figure 5 and column 3, lines 24-30. Therefore, Smith in view of Kutsch et al. also renders the limitations set forth in this claim obvious.

29. **Claims 5, 6, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 5,772,502) in view of Bergen (US 1,431,869) as applied to claims 2 and 17 above, and further in view of Gates (US 5,149,301). These three references, when considered together, teach all of the elements recited in **claims 5, 6, and 20** of this application.

30. In particular, claims 5 and 20 of this application are obvious when Smith is viewed in light of Bergen, and further viewed in light of Gates. As described above, Smith, as modified by Bergen, discloses all the elements of base claims 2 and 17, the claims upon which these claims respectively depend. Moreover, with respect to claims 5 and 20, Smith further discloses a drain

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trough (gutters 70, 72) formed between each of said ventilation grids (58, 60) and its corresponding wind baffle (outer edge walls 78, 80 with outwardly upturned lips 82, 84), weep holes (outer drain wall openings 106) formed along each of said drain troughs (70, 72) for promoting the escape of water from said drain troughs (70, 72). Refer to Smith, Figures 2-6 and column 3, lines 44-52. However, claims 5 and 20 of this application further disclose upstanding barriers positioned along said drain troughs and aligned with said weep holes for preventing rain from being blown through said weep holes and into said ventilation grids. Smith, as modified by Bergen, does not contain these additional limitations. Gates, although, teaches a roof ridge ventilator (10) having drain troughs (e.g., spaces 28) disposed on laterally opposed sides thereof, weep holes (drain openings 30) formed along each of the drain troughs (28) for promoting the escape of water from the drain troughs (28), and upstanding barriers (inner, wind deflecting baffles 32) positioned along the drain troughs (28) and aligned with the weep holes (30) for the purpose of preventing wind driven rain and/or snow from being blown through the weep holes (30) and into the ventilator (10). Refer to Gates, Figures 1-2; column 2, lines 28-43; column 3, lines 43-68; and column 4, lines 1-3. Therefore, when Smith is viewed in light of Bergen, and further viewed in light of Gates, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ridge ventilation system of Smith in view of Bergen by adding upstanding barriers (32) in the drain troughs (70, 72) behind each of the weep holes (106), as taught by Gates, in order to prevent wind driven rain and/or snow from being blown through the weep holes (106) and into the ridge vent sections (20). Refer to Gates, column 3, lines 52-66.

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31. In regard to claim 6, the modified ridge ventilation system of Smith further teaches that the fasteners (e.g., nails) are removably secured to the ridge vent sections (20). See Bergen, Figures 1-3 and page 1, lines 39-89.

Smith, as modified by Bergen and Gates, does not expressly teach that the fasteners are removably secured to the ridge vent sections between at least one of said wind baffles and the corresponding ventilation grid. Although, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to position the removable fasteners between at least one of said wind baffles and the corresponding ventilation grid because the applicant has not disclosed that this selected position for the removable fasteners provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected the applicant's invention to perform equally well with the removable fasteners located along a longitudinal peripheral edge of the ridge vent sections, as taught by Bergen, because this location would also enable the fasteners to be conveniently removed by a worker during the installation of the ridge vent sections on the roof.

32. **Claims 12-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US 5,772,502) in view of Kutsch et al. (US 4,545,291) as applied to claim 10 above, and further in view of Bergen (US 1,431,869). These three references, when considered together, teach all of the elements recited in **claims 12-14** of this application.

33. In particular, claim 12 of this application is obvious when Smith is viewed in light of Kutsch et al., and further viewed in light of Bergen. As described above, Smith, as modified by Kutsch et al., discloses all the elements of base claim 10, the claim upon which claim 12

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depends. However, claim 12 of this application further discloses a plurality of fasteners removably secured to each of said ridge vent sections, said fasteners being positioned to be removed by an installer of said ridge ventilation system for use in fastening said ridge vent sections to a roof. Smith, as modified by Kutsch et al., does not contain these additional limitations. Bergen, although, teaches a combination roofing shingle and attaching means therefor having a plurality of fastening elements (nails 11) removably secured to a longitudinal peripheral edge of each roofing shingle section (10) via holders (12), said fastening elements (11) being positioned to be removed by an installer of the roofing shingle sections (10) for use in fastening the roofing shingle sections (10) to a roof (i.e., by driving the fastening elements 11 through holes 17) for the purpose of saving time and labor for an installer working at the jobsite by conveniently locating the fastening elements (11) on the device being installed. See Bergen, Figures 1-3 and page 1, lines 39-89. Therefore, when Smith is viewed in light of Kutsch et al., and further viewed in light of Bergen, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ridge ventilation system of Smith in view of Kutsch et al. by providing each ridge vent section (20) with a plurality of fasteners (e.g., nails) removably secured to a longitudinal peripheral edge thereof for removal during installation, as taught by Bergen, in order to save time and labor for an installer working at the jobsite by conveniently locating the affixing fasteners on the device being installed. Refer to Bergen, page 1, lines 75-78 and 83-89.

34. In regard to claim 13, the modified ridge ventilation system of Smith further teaches that the plurality of fasteners (e.g., nails) are removably secured to each of said ridge vent sections (20) at their longitudinal peripheral edges and along said ventilation grids (58, 60) thereof. See

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Bergen, Figure 1. Therefore, Smith in view of Kutsch et al., and further in view of Bergen, also renders the limitations set forth in this claim obvious.

35. In regard to claim 14, the modified ridge ventilation system of Smith further teaches that each of said ridge vent sections (20) further comprises wind baffles (outer edge walls 78, 80 with outwardly upturned lips 82, 84) positioned outboard of said ventilation grids (58, 60) for creating a relatively low pressure region in the vicinity of said ventilation grids (58, 60) in response to a breeze blowing past said ridge vent section (20), said fasteners (e.g., nails) being removably secured to said ridge vent sections (20). See Smith, Figure 5 and column 3, lines 53-67; also see Bergen, Figures 1-3 and page 1, lines 39-89.

Smith, as modified by Kutsch et al. and Bergen, does not expressly teach that the fasteners are removably secured to the ridge vent sections between at least one of said wind baffles and the corresponding ventilation grid. Although, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to position the removable fasteners between at least one of said wind baffles and the corresponding ventilation grid because the applicant has not disclosed that this selected position for the removable fasteners provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected the applicant's invention to perform equally well with the removable fasteners located along a longitudinal peripheral edge of the ridge vent sections, as taught by Bergen, because this location would also enable the fasteners to be conveniently removed by a worker during the installation of the ridge vent sections on the roof.

Allowable Subject Matter

36. **Claims 3-4, 7-9, and 15** are objected to as being dependent upon rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims.

Response to Arguments

37. Applicant's arguments with respect to pending claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 1-2, 5-6, 10-14, 20, 38, and 39, which were previously allowed, the Examiner regrettably informs the Applicants that these claims no longer constitute allowable subject matter in light of the rejections recited above that are based upon several newly applied prior art references, namely Smith (US 5,772,502), Bergen (US 1,431,869), Kutsch et al. (US 4,545,291), and Gates (US 5,149,301).

Conclusion

38. See attached form PTO-892 for additional pertinent prior art, which was not directly relied upon in this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick F. O'Reilly III whose telephone number is (571) 272-3424. The examiner can normally be reached on Monday through Friday, 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven B. McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick F. O'Reilly III/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749